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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,664	04/16/2007	Gary Hopkins Sr	AH126/2005.5	2259
7590 David W. Carrithers CARRITHERS LAW OFFICE, PLLC Ste 206 6200 Dutchman's Lane Louisville, KY 40205			EXAMINER VAN, QUANG T	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 03/21/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/573,664

**Applicant(s)**

HOPKINS SR, GARY

**Examiner**

Quang T. Van

**Art Unit**

3742

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-11 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Objections***

1. Claim 15 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In this case, the dependent claim 15 is depended to the cancelled claim 14. Correction is requested.

NOTE: For purposed of examination, it is presumed claim 15 is depended to claim 1.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-9, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopkins (US 6,559,431) new cited, in view of Livingstone (US Re 25,906) previously cited. Hopkins discloses a microwave cooking tray comprising a container (210) defining a compartment for holding food (Figure 10), the container (210) including a first member (212) sealed to a second member (280) to define the compartment, wherein the heating of the members forms a vent in the seal between the first member (212) and the second member (280, col. 9, lines 11-26). However, Hopkins does not disclose the first member has a coefficient of thermal expansion that is different than the coefficient of thermal expansion of the second member. Livingstone discloses the first member (5) has a coefficient of thermal expansion (col. 9, lines 45-47)

that is different than the coefficient of thermal expansion of the second member (6, col. 9, lines 45-47). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Hopkins the first member has a coefficient of thermal expansion that is different than the coefficient of thermal expansion of the second member as taught by Livingston in order to control the pressure inside the compartment.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopkins (US 6,559,431) new cited, in view of Livingstone (US Re 25,906) previously cited, and further in view of Husband et al (US 2003/0222100) previously cited.

Hopkins/Livingstone disclose substantially all features of the claimed invention except the base is composed of a polyester terephthalate. Husband discloses a base is composed of a polyester terephthalate (claim 2, line 7). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Hopkins/Livingstone a base is composed of a polyester terephthalate as taught by Husband in order to withstand the high temperature environment.

***Response to Amendment***

5. Applicant's arguments with respect to claims 1-3, 5-11 and 15 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 5:00Pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang T Van/  
Primary Examiner, Art Unit 3742  
March 14, 2011

Quang T Van  
Primary Examiner  
Art Unit 3742